

JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

IN RE: CT-1 HOLDINGS, INC.	)	Case No. CV 13-08264-VAP
	)	USBC Case No. 2:10-BK-19927-
	)	BR
DEBTOR,	)	ADVERSARY Case No. 2:13-AP-
	)	1245-BR
Screen Capital	)	
International Corp.,	)	<b>ORDER AFFIRMING-IN-PART,</b>
	)	<b>REVERSING-IN-PART, AND</b>
Appellant,	)	<b>REMANDING THE MATTER TO THE</b>
	)	<b>BANKRUPTCY COURT</b>
v.	)	
	)	
Farhad Saadat,	)	
	)	
Appellee.	)	

In the course of involuntary bankruptcy proceedings against debtor CT-1 Holdings, LLC ("CT-1"), Appellant Screen Capital International Corporation ("SCIC"), acting on behalf of CT-1's estate, brought an adversary proceeding to avoid allegedly fraudulent transfers CT-1 made to Appellee and Cross-Appellant Farhad Saadat. Finding that SCIC failed to plead its fraudulent transfer claims sufficiently, the bankruptcy court dismissed SCIC's complaint, with prejudice. This appeal followed.

1  
2 It is readily apparent to the Court that SCIC's  
3 complaint fails to plead the facts necessary to make out  
4 its claims for fraudulent transfer; as discussed below,  
5 the bankruptcy court properly dismissed it. Dismissal  
6 with prejudice, however, was improper. The bankruptcy  
7 court seems to have found that by the time SCIC filed an  
8 amended complaint, its claims against Saadat would be  
9 time-barred; the court therefore concluded granting SCIC  
10 leave to amend its complaint would have been futile.  
11 That conclusion is incorrect, because SCIC's claims could  
12 be related back to the date of its initial complaint,  
13 pursuant to Federal Rule of Civil Procedure 15(c)(1)(B).  
14

15 But there are two other questions, presented by  
16 Saadat's cross-appeal, that will affect this matter on  
17 remand - and which the Court will also address below.  
18 (Because SCIC is entitled to amend its complaint on  
19 remand, it would be premature to resolve either question  
20 now.) The first question is whether SCIC has standing to  
21 initiate this adversary proceeding on CT-1's behalf, at  
22 all. If SCIC elects to file an amended complaint, the  
23 bankruptcy court should address that question sua sponte.  
24 The second question is whether a broad release, entered  
25 into by an entity allegedly related to SCIC, bars SCIC's  
26 claims against Saadat. As release is an affirmative  
27 defense that Saadat will need to plead and prove, it is  
28

1 premature to address it while SCIC may still file an  
2 amended complaint that avoids the issue entirely.

### 3 4 **I. BACKGROUND**

5 Resolving this appeal does not require much  
6 discussion of the larger bankruptcy proceedings  
7 underlying it. The Court begins with the facts it gleans  
8 from SCIC's complaint, which the Court accepts as true.  
9 See In re Pomona Valley Med. Group, Inc., 476 F.3d 665,  
10 671 (9th Cir. 2007) (applying the familiar civil standard  
11 for evaluating a motion to dismiss to a bankruptcy  
12 adversary proceeding).

13  
14 CT-1 is part of a group of related now-bankrupt  
15 entities, all involved in the entertainment business. In  
16 December 2007, CT-1 took out a \$40 million loan, the  
17 proceeds of which appear to have gone in part to pay off  
18 other loans, but \$560,000 of which went to "F. Saadat."  
19 (1 ER 8-9.) In February 2008, CT-1 borrowed \$11 million  
20 more, from which SCIC alleges \$150,006 went to Saadat via  
21 cashier's check. (1 ER 10.) (Additionally, though they  
22 do not appear anywhere in the text of the complaint, SCIC  
23 attached an exhibit indicating two more payments to  
24 Saadat, in the winter of 2008, totaling an additional  
25 \$300,000.) SCIC contends that by sometime in 2008 - and  
26 perhaps in 2007 - CT-1 was insolvent. (1 ER 12.) In  
27 March 2010, CT-1's creditors forced it, and its  
28

1 affiliated entities, into Chapter 11 bankruptcy  
2 proceedings. (Id.)

3  
4 In the course of those proceedings, SCIC and the  
5 bankruptcy trustee overseeing several of the debtors'  
6 estates, including CT-1's, stipulated that SCIC would  
7 have the authority to bring claims on the estates'  
8 behalf. (1 ER 5.) SCIC then filed a complaint alleging  
9 three substantive claims against Saadat in an attempt to  
10 avoid the payments he received in 2007 and 2008.<sup>1</sup>

11  
12 Arguing that the scant allegations made against him  
13 were insufficient to ground SCIC's claims, Saadat moved  
14 to dismiss SCIC's complaint. (See 1 ER 34-63.)  
15 Moreover, Saadat argued, that dismissal should be with  
16 prejudice, for two reasons. First, SCIC's complaint was  
17 filed so close to the statute of limitations on its  
18 claims that the claims would be time-barred before SCIC  
19 could amend its complaint. Ordinarily, SCIC could avoid  
20 that problem by relating its amended claims back to the  
21 original complaint under Federal Rule of Civil Procedure  
22 15(c)(1)(B), which allows "[a]n amendment to a pleading  
23 [to] relate[] back to the date of the original pleading  
24 when . . . the amendment asserts a claim or defense that

25 \_\_\_\_\_  
26 <sup>1</sup> Three of SCIC's claims were for fraudulent  
27 conveyance under California law; a fourth invoked a  
28 provision of the Bankruptcy Code that allows a trustee to  
recover the value of any transfer avoided by the other  
three claims, 11 U.S.C. § 550.

1 arose out of the conduct, transaction or occurrence set  
2 out - or attempted to be set out - in the original  
3 pleading . . . ." Saadat contended, however, that SCIC's  
4 complaint was so devoid of facts that it was just a  
5 placeholder to allow SCIC to evade the statute of  
6 limitations on its fraudulent conveyance claims - and  
7 therefore that SCIC should not be afforded Rule 15's  
8 protection. (See 1 ER 61-62; 2 ER 1092-93.)

9  
10 Second, Saadat raised the issue of an agreement that  
11 releases a broad range of people (allegedly including  
12 Saadat) from a broad range of claims (including SCIC's)  
13 made by any member of a group of plaintiffs (including  
14 SCIC). (See 1 ER 58; 1 ER 90-91.) While the bankruptcy  
15 court did not rely on the release in reaching its  
16 conclusion, Saadat raises it in his cross-appeal, so its  
17 details merit elaboration.

18  
19 As noted above, this adversary proceeding is part of  
20 a larger involuntary bankruptcy involving several  
21 debtors, and at least one sizable loan. One creditor,  
22 Aramid, agreed to release its claims, along with those of  
23 its affiliates, against the debtors and their "past and  
24 present officers, directors, servants, agents, attorneys,  
25 assigns, heirs, parents, subsidiaries, and each Person  
26 acting for or on behalf of any of them." (See  
27 Appellant's Opening Br. at 5; Appellee's Opening Br. at  
28

1 4.) Saadat contended that SCIC is an affiliate of Aramid  
2 - and Saadat an intended beneficiary of the release - and  
3 therefore that SCIC had released its claim against  
4 Saadat. (1 ER 59-60.)

5  
6 The bankruptcy court held a hearing on Saadat's  
7 motion to dismiss SCIC's complaint. (See 2 ER  
8 1049-1122.) The court was unpersuaded by Saadat's  
9 argument that the Aramid release barred SCIC's claims  
10 against him, finding that nothing properly before the  
11 court demonstrated that Saadat was a released party  
12 within the scope of the agreement. (See 2 ER 1087-90,  
13 1093-94.) It granted Saadat's motion, however, on the  
14 basis that SCIC failed to plead facts sufficient to  
15 sustain its claims; the court dismissed the complaint  
16 with prejudice because it found an amended complaint  
17 could not relate back to the original complaint, and  
18 would therefore be time-barred. (See 2 ER 1093, 1098-99,  
19 1101-02, 1124.)

20  
21 SCIC appeals, arguing the bankruptcy court held it to  
22 too high a standard of pleading in dismissing its claims,  
23 and erred again by dismissing its complaint without leave  
24 to amend. (See generally Appellant's Opening Br. at  
25 i-ii.) Saadat cross-appeals, arguing that SCIC lacks  
26 standing to pursue its claims against him in the first  
27 place, and that the release applies to bar claims against  
28

1 Saadat. (See generally Appellee's Opening Br. at i-ii.)  
2 The Court now addresses those arguments.

## 3 4 **II. LEGAL STANDARD**

5 The Court reviews de novo the bankruptcy court's  
6 order dismissing a complaint for failure to state a  
7 claim. In re Mwangi, 764 F.3d 1168, 1173 (9th Cir.  
8 2014). The bankruptcy court's decision to make that  
9 dismissal with prejudice is reviewed for an abuse of  
10 discretion. Anwar v. Johnson, 720 F.3d 1183, 1186 (9th  
11 Cir. 2013).

## 12 13 **III. DISCUSSION**

14 The Court takes the issues as follows: First, did  
15 SCIC plead sufficient facts to state a claim against  
16 Saadat? (It did not.) Second, assuming SCIC's complaint  
17 is pled insufficiently (it is), did the bankruptcy court  
18 abuse its discretion by denying SCIC leave to file an  
19 amended complaint? (It did.) Finally, the Court turns  
20 to the issues raised in Saadat's cross-appeal, which  
21 should be addressed by the bankruptcy court in the first  
22 instance, in the fashion outlined below (should SCIC  
23 elect to amend its complaint).

### 24 25 **A. SCIC's Complaint Fails to State a Claim Against 26 Saadat.**

27 The gravamen of SCIC's claims against Saadat is that  
28 Saadat was the recipient of fraudulent transfers of money

1 that should be returned to CT-1's estate (presumably for  
2 the benefit of CT-1's creditors). To make those claims,  
3 SCIC needed to set forth "a short and plain statement of  
4 the claim[s] showing [its] entitle[ment] to relief."  
5 Fed. R. Civ. P. 8(a)(2). Such a statement cannot consist  
6 of only labels and conclusions, and it must be more than  
7 a mere recitation of the claims' elements. Bell Atl. Co.  
8 v. Twombly, 550 U.S. 544, 555 (2007). Instead, a  
9 complaint must contain facts that, when assumed true,  
10 would render its legal claims plausible. Ashcroft v.  
11 Iqbal, 556 U.S. 662, 678-79 (2009); Eclectic Properties  
12 E., LLC v. Marcus & Millichap Co., 751 F.3d 990, 995-97  
13 (9th Cir. 2014). SCIC's complaint does not pass muster  
14 under this standard.

15  
16 The Bankruptcy Code "empowers a bankruptcy trustee to  
17 invoke state law to recover the debtor's prepetition  
18 transfers." In re Acequia, Inc., 34 F.3d 800, 807 (9th  
19 Cir. 1994); see 11 U.S.C. § 544(b)(1) ("[T]he trustee may  
20 avoid any transfer of an interest of the debtor in  
21 property or any obligation incurred by the debtor that is  
22 voidable under applicable law by a creditor holding an  
23 unsecured claim . . . ."). SCIC, having been tapped by  
24 the trustee of CT-1's bankruptcy estate, attempted to use  
25 California's fraudulent conveyance law to recover  
26 transfers from Saadat in three different ways.



1 First, California law would allow avoidance of the  
2 payments to Saadat if CT-1 paid Saadat "with actual  
3 intent to hinder, delay, or defraud" any of CT-1's other  
4 creditors, Cal. Civ. Code § 3439.04(a)(1) - in other  
5 words, if CT-1 gave Saadat the money for the purpose of  
6 preventing anyone else it owed from getting paid. This  
7 claim, which alleges fraud outright, requires details  
8 beyond those required by Rule 8(a) and Twombly/Iqbal.  
9 Screen Capital Int'l Corp. v. Library Asset Acquisition  
10 Co., 510 B.R. 266, 274 (C.D. Cal. 2014); see also  
11 Nishibun v. Prepress Solutions, Inc., 111 F.3d 138 (9th  
12 Cir. 1997) (unpublished table decision) ("A complaint  
13 alleging a violation of [§ 3439.04(a)] must . . . comply  
14 with Fed. R. Civ. P. 9(b)'s particularity  
15 requirements."); see generally Fed. R. Civ. P. 9(b)  
16 (subjecting fraud claims to a heightened pleading  
17 standard). To make this claim, SCIC would be required to  
18 plead "the who, what, when, where, and how of the  
19 misconduct charged," Cafasso v. Gen. Dynamics C4 Sys.,  
20 Inc., 637 F.3d 1047, 1055 (9th Cir. 2011) (internal  
21 quotation marks and citations omitted); that is, "the  
22 times, dates, places, benefits received, and other  
23 details of the alleged fraudulent activity," Neubronner  
24 v. Milken, 6 F.3d 666, 672 (9th Cir. 1993).

25  
26 Second, CT-1's conveyance to Saadat would be  
27 avoidable under California law if CT-1 did not receive "a  
28

1 reasonably equivalent value in exchange" for its payments  
2 and: (A) it "[w]as engaged or was about to engage in a  
3 business or transaction for which [its] remaining assets  
4 . . . were unreasonably small in relation to the business  
5 or transaction"; or (B) it "[i]ntended to incur, or  
6 believed or reasonably should have believed that [it]  
7 would incur, debts beyond [its] ability to pay as they  
8 became due." Cal. Civ. Code § 3439.04(a)(2). In other  
9 words, if CT-1 paid more than it should have for  
10 something, and would be left with assets insufficient to  
11 carry on or undertake its business - or should have  
12 believed, having paid Saadat, that it would be unable to  
13 pay its debts - then the detrimental transfer would be  
14 deemed fraudulent, and rendered avoidable.

15  
16 Third, the transfers would be avoidable, but only as  
17 to a creditor whose claim arose before the transfers, if  
18 CT-1 made them "without receiving a reasonably equivalent  
19 value in exchange," and was insolvent at the time of  
20 transfers, or as a result of them. Id. § 3439.05.<sup>2</sup>  
21 (Since this claim and a claim under § 3439.04(a)(2) do  
22 not require fraudulent intent, neither is subject to Rule  
23 9(b)'s heightened pleading standards. Screen Capital

24  
25  
26 <sup>2</sup> There is a difference between having unreasonably  
27 small assets, per § 3439.04(a)(2), and being insolvent,  
28 per § 3439.05, but it is not relevant here. See  
Interinvest Mortg. Inv. Co. v. Skidmore, 655 F. Supp. 2d  
1100, 1105 (E.D. Cal. 2009) (differentiating having  
unreasonably small assets from being insolvent).

1 Int'l Corp., 510 B.R. at 274.)

2

3 SCIC's complaint fails against this backdrop. To  
4 begin, the complaint names Saadat a defendant, but  
5 nowhere does it say who Saadat is. The complaint merely  
6 alleges some money was transferred to him, which is far  
7 from "the who, what, when, where, and how of the  
8 misconduct charged." Cafasso, 637 F.3d at 1055.

9

10 Setting aside that omission, there are no facts  
11 alleged whatsoever to make it plausible - rather than  
12 merely speculative - that CT-1's conveyances to Saadat  
13 were intentionally fraudulent. The closest SCIC comes is  
14 to allege that "[b]ased on, among other things" - which  
15 remain unspecified - "the fact that [CT-1] often used its  
16 funds to pay the gambling debts of" one of its  
17 principals, "and to make payments to entities that were  
18 not entitled to receive [its] funds," CT-1 made the  
19 transfers to Saadat "with actual intent to hinder, delay  
20 or defraud its creditors." (1 ER 19.) The most the  
21 complaint alleges about the specific payments to Saadat  
22 is how much they were for and when they took place. See  
23 Nishibun, 111 F.3d at 138 (holding a section  
24 3439.04(a)(1) claim properly dismissed when the complaint  
25 "simply sets forth neutral facts necessary to identify  
26 the transaction").

27

28

1 Likewise, the complaint fails to allege a requisite  
2 element of either of its other two substantive claims,  
3 i.e., that CT-1 did not receive anything of reasonably  
4 equivalent value for its payments to Saadat. On that  
5 score, the complaint comes nearest the mark when it  
6 states that "because [Saadat] does not appear to be a  
7 creditor of [CT-1], and for other reasons" - again,  
8 unspecified - "[SCIC] is informed and believes that [CT-  
9 1]" did not "receiv[e] reasonably equivalent value" in  
10 exchange for its payments to Saadat. (1 ER 20.) That  
11 Saadat "does not appear to be a creditor" says nothing  
12 about whether CT-1 got its money's worth, e.g., for  
13 something it purchased from Saadat. Again, SCIC is not  
14 alleging a fact that makes its legal claims plausible; it  
15 is merely inviting speculation that they could be.<sup>3</sup>

16  
17 In any event, SCIC could satisfy its pleading  
18 requirement, at least as to the reasonably-equivalent-  
19 value element, simply by stating - assuming it can do so  
20 consistently with Federal Rule of Civil Procedure 11 -  
21 that CT-1 received nothing in exchange for its payments  
22

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23 <sup>3</sup> At the bankruptcy court's hearing on Saadat's  
24 motion, the question whether SCIC pled reasonably  
25 equivalent value successfully led to a discussion about  
26 what one must plead under section 3439.04(a)(2) or  
27 section 3439.05 if a debtor receives nothing at all in  
28 return for its payment - presumably what SCIC intended to  
plead - instead of only nothing of reasonably equivalent  
value. (See 2 ER 1071-76.) The answer: a plaintiff can  
allege simply that the debtor received nothing at all in  
exchange for its payment.

1 to Saadat. As it stands, however, the bankruptcy court  
2 held correctly that SCIC satisfied neither its pleading  
3 obligations as to section 3409.04(a)(1) or its pleading  
4 obligations as to sections 3409.04(a)(2) and 3409.05.

5  
6 **B. SCIC Should Be Granted Leave to Amend its Complaint.**

7 If the bankruptcy court dismissed SCIC's complaint  
8 properly, the question then becomes whether SCIC should  
9 have had leave to file an amended complaint. That  
10 decision was left to the bankruptcy court's discretion,  
11 Anwar, 720 F.3d at 1186, which the bankruptcy court  
12 abused if it either applied the wrong legal standard in  
13 making its ruling, or if it applied the correct standard  
14 in a manner that was illogical, implausible, or without  
15 support in inferences that can be drawn from the record  
16 before it, United States v. Hinkson, 585 F.3d 1247,  
17 1261-62 (9th Cir. 2009) (en banc).

18  
19 The parties assume that the reason for the bankruptcy  
20 court's decision was that it found SCIC's complaint so  
21 deficient that an amended complaint could not be made to  
22 relate back to it, SCIC's claims would thus be time-  
23 barred, and amendment would therefore be futile. (See  
24 Appellant's Opening Br. at 24; Appellee's Opening Br. at  
25 22-23.) That rationale, however, is not one the  
26 bankruptcy court itself gave. Instead, to find out what,  
27 precisely, they are arguing over on appeal, both parties  
28

1 turn to a statement the bankruptcy court made in a  
2 separate-but-related matter, heard later the same day as  
3 argument on Saadat's motion:

4 I have in the past, not this morning, clearly,  
5 but I have in the past ruled - I can't keep  
6 track, there's so many of these, but I know I  
7 have, that if it doesn't state it in the  
8 original complaint - facts, that you can't  
relate back because the statute has run. Again,  
I didn't say it this morning, and I - but I know  
I have said it, and that's - that's always been  
my - my belief in these cases.

9 (2 ER 1119.)

10 The parties' reliance on that statement is puzzling,  
11 however, as it suggests that unlike SCIC's complaint  
12 against Saadat (i.e., the complaint discussed "this  
13 morning"), the afternoon complaint was too deficient to  
14 support the relation-back of an amended complaint.  
15

16 Nevertheless, assuming that the bankruptcy court's  
17 rationale for dismissing with prejudice the complaint  
18 against Saadat was the rationale the parties offer, the  
19 bankruptcy court's conclusion in error. An amended  
20 complaint may relate back to an original one, and  
21 therefore avoid a time-bar, if its claims arise out of  
22 the same conduct as that alleged (or attempted to be  
23 alleged) in the original complaint. Williams v. Boeing  
24 Co., 517 F.3d 1120, 1133 (9th Cir. 2008). The relevant  
25 question is whether SCIC's original complaint provided  
26 Saadat with adequate notice of what its amended complaint  
27 would charge. Id. at 1133 n.9.  
28

1       It is clear from the original complaint that SCIC  
2 means to allege that a limited set of transfers,  
3 specified in the complaint, were made to Saadat  
4 improperly under one or more of three specific California  
5 statutes. So long as an amended complaint addresses the  
6 same set of transactions, it relates back to the original  
7 complaint, and if the original complaint was not time-  
8 barred, the amended complaint should not be. See In re  
9 Markus, 313 F.3d 1146, 1150 (9th Cir. 2002) (noting that  
10 relation-back is permitted when the amended claims "will  
11 likely be proved by the same kind of evidence offered in  
12 support of the original pleadings" (internal quotation  
13 marks and citations omitted)). Accordingly, the order of  
14 the bankruptcy court is reversed inasmuch as its  
15 dismissal of SCIC's complaint was with prejudice. On  
16 remand, the bankruptcy court should permit SCIC to file  
17 an amended complaint within whatever reasonable timeframe  
18 the bankruptcy court directs.

19  
20 **C. Saadat's Cross-Appeal.**

21       What remains are two issues Saadat raises in his  
22 cross-appeal. First, there is the question whether a  
23 broad release, the subject of litigation in the  
24 bankruptcy court and before another judge of this Court,  
25 bars SCIC's claims against Saadat. This Court is not in  
26 a position to answer that question, because release is an  
27 affirmative defense that must be raised in a pleading and  
28

1 proven by Saadat, Fed. R. Civ. P. 8(c)(1); Monge v. Maya  
2 Magazines, Inc., 688 F.3d 1164, 1170 (9th Cir. 2012), and  
3 since SCIC may yet file its own pleading bearing on the  
4 question, it is best addressed in the first instance (if  
5 necessary) by the bankruptcy court.

6  
7 Second, there is a question whether SCIC has standing  
8 to sue Saadat on behalf of the bankruptcy trustee, at  
9 all. That question should be tackled sua sponte by the  
10 bankruptcy court if SCIC elects to file an amended  
11 complaint. The rule is this: If SCIC is a creditor of  
12 CT-1, and thus stands to benefit from the estate's  
13 recovery of fraudulent conveyances, then SCIC does not  
14 lack standing to bring this suit on the estate's behalf -  
15 at least, not for the reason that only the trustee,  
16 acting for the estate, is entitled to sue for avoidance.  
17 In re Parmetex, Inc., 199 F.3d 1029, 1030-31 (9th Cir.  
18 1999). If SCIC is not a creditor, it has no injury; if  
19 SCIC has no injury, it has no constitutional standing,  
20 Susan B. Anthony List v. Driehaus, 134 S. Ct. 2334, 2341  
21 (2014). If SCIC has no constitutional standing, its suit  
22 must be dismissed sua sponte, see Fed. R. Civ. P.  
23 12(h)(3) (requiring a court to dismiss an action any time  
24 it finds it lacks subject-matter jurisdiction); Carijano  
25 v. Occidental Petroleum Corp., 643 F.3d 1216, 1227 (9th  
26 Cir. 2011) (observing that standing is an issue  
27 pertaining to the court's subject-matter jurisdiction).



1  
2 **IV. CONCLUSION**

3 The bankruptcy court properly dismissed SCIC's  
4 threadbare complaint for failure to state a claim, and is  
5 affirmed on that front. The bankruptcy court erred,  
6 however, if it denied SCIC an opportunity to amend its  
7 complaint because it thought any amendment would be time-  
8 barred. To the extent that rationale was the basis of  
9 its decision, the bankruptcy court's judgment is  
10 reversed; on remand, it should offer SCIC the opportunity  
11 to file an amended complaint. If SCIC elects to file an  
12 amended complaint, the bankruptcy court should address  
13 the question of SCIC's standing to do so, and if  
14 necessary (at the appropriate time), the applicability of  
15 the broad release to SCIC's claims against Saadat.

16  
17 

18 Dated: October 27, 2014

19 VIRGINIA A. PHILLIPS  
20 United States District Judge  
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